

ORDINANCE NO. _____

An Ordinance amending the Metropolitan Code of Laws, Chapter 12.54,
Horse Drawn Carriages.

WHEREAS, the Metropolitan Transportation Licensing Commission has the exclusive jurisdiction to regulate the operation of all vehicles for hire, including horse drawn carriages; and,

WHEREAS, there has not been a housekeeping amendment to Chapter 12.54 since 2002, and the Transportation and Licensing Commission wishes to amend the Metropolitan Code of Laws to clarify sections of the Chapter and to bring the Chapter into compliance with current industry and operational standards; and,

WHEREAS, it is in the best interest of the people of Nashville and Davidson County that the amendments be made.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That Chapter 12.54, section 12.54.010, Definitions, of the Metropolitan Code of Laws is amended by adding the following language: ““MTLC Staff” means the employees assigned to assist and support the metropolitan transportation licensing commission.”

Section 2. That Chapter 12.54, section 12.54.030(A) of the Metropolitan Code of Laws be amended by deleting “one hundred” and substituting in lieu thereof, “five hundred.”

Section 3. That Chapter 12.54, section 12.54.030(B)(7) of the Metropolitan Code of Laws be amended by deleting the final sentence of the paragraph and substituting in lieu thereof:

“The commission director or the MTLC staff may require completion of any necessary forms to implement this part;”

Section 4. That Chapter 12.54, section 12.54.030(B)(11) of the Metropolitan Code of Laws be amended by deleting it in its entirety and replacing it with the following language:

“Whether the applicant has been convicted, pled guilty, placed on diversion, probation or parole, or pled nolo contendere within a period of five years prior to the date of application for violation of any of the following criminal offenses under any local, state or federal law: homicide, rape, aggravated assault or battery, domestic abuse or assault, kidnapping, robbery, burglary, child molestation, any sex-related offense, leaving the scene of an accident, criminal solicitation, or any offense related to cruelty to animals or criminal attempt to commit any of above, perjury or false swearing in making any statement under oath in connection with the application for a certificate, or the felony possession, sale or distribution of narcotic drugs or controlled substances. If, at the time of application, the applicant is charged with any such offenses, consideration of the application shall be deferred until entry of a plea, conviction, acquittal, dismissal, or other final disposition of the charges. The MTLC staff shall check the National Sex Offender Database to verify whether the applicant is listed on the database. Any applicant listed on the database shall be disqualified for eligibility to hold a certificate.”

Section 5. That Chapter 12.54, section 12.54.030(B)(14) of the Metropolitan Code of Laws shall be amended by deleting it in its entirety and replacing it with the following language:

“Any additional information the commission director or the MTLC Staff considers necessary to assist or promote the implementation or enforcement of this chapter or the protection of the public safety.”

Section 6. That Chapter 12.54, section 12.54.040(B) shall be amended by deleting it in its entirety and replacing it with the following:

“In determining whether or not a certificate of public convenience and necessity should be issued, the commission shall give weight and due regard, among other things, to:

1. The number of horse drawn carriages already in operation; whether existing service is adequate to meet the public need; the character, experience, financial condition and responsibility of the applicant, and such criteria as may be adopted by the commission in its rules.”

Section 7. That Chapter 12.54, section 12.54.050(C) of the Metropolitan Code of Laws shall be amended by deleting it in its entirety and replacing it with the following language:

“Approval of temporary changes in authorized zones and hours of operation of a horse-drawn carriage must be requested from the traffic and parking commission or its designee at least five business days before being implemented.”

Section 8. That Chapter 12.54, section 12.54.050(D) of the Metropolitan Code of Laws shall be amended by deleting it in its entirety.

Section 9. That Chapter 12.54, section 12.54.050(E) of the Metropolitan Code of Laws shall be amended by deleting it in its entirety.

Section 10. That Chapter 12.54, section 12.54.070(A) of the Metropolitan Code of Laws shall be amended by deleting it in its entirety and replacing it with the following language:

“The commission or the Commission director may place on probation, suspend, fine or revoke a certificate if it is determined that the certificate holder, certificate holder’s employee, or any driver operating on behalf of the certificate holder, has:

1. Made a false statement in the application;
2. Made a false statement under oath during a disciplinary hearing before the Transportation Licensing Commission;
3. Failed to comply with provisions of this chapter;
4. Operated a service not authorized by the certificate;
5. Failed to comply with the conditions and limitations of the certificate;
6. Been convicted of a violation of local, state, or federal law, that indicates a lack of fitness of the permittee to perform a passenger transportation service;
7. Been convicted of any felony offense while holding the permit;
8. Failed to qualify for a certificate under any section of this chapter;
9. Operated without appropriate permits and licenses issued by any other governmental entity;

10. Engaged in conduct detrimental to the public safety;
11. Been convicted of any offense involving driving while intoxicated; or
12. Engaged in conduct unbecoming of a holder of a certificate of convenience and necessity.
13. If the certificate holder, certificate holder's employee, or any driver operating on behalf of the certificate holder commits an act in violation of the Criminal Code or Metropolitan Code of Laws and the commission director determines that certificate holder or his/her company poses a threat to public safety or animal welfare, the commission director may enact an emergency suspension of the certificate to remain in effect until the certificate holder has the opportunity to be heard by the commission at the next available commission meeting, but in no circumstance later than sixty days from the date of the emergency suspension."

Section 11. That Chapter 12.54, section 12.54.070(C) of the Metropolitan Code of Laws shall be amended by deleting it in its entirety and replacing it with the following language:

"The commission director shall notify the certificate holder in writing with a notice of the proposed action to be taken and the general basis for the proposed action along with the date, location and time of a "show-cause hearing" to take place before either the commission director or the commission. The certificate holder shall have an opportunity to be heard by the commission director or the commission before the imposition of any probation, suspension or revocation."

Section 12. That Chapter 12.54, section 12.54.090(B) of the Metropolitan Code of Laws shall be amended by deleting "six months" and substituting in lieu thereof, "one year."

Section 13. That Chapter 12.54, Section 12.54.130 of the Metropolitan Code of Laws shall be amended by deleting it in its entirety and replacing it with the following language:

"12.54.130 Application—information and fees required

- A. An application for a horse-drawn carriage driver permit shall be filed with the commission and shall comply with regulations set forth by the commission or the commission director.
- B. Such application shall be certified under oath and shall at a minimum contain the following information:
 1. The name, residential address, telephone number and date of birth of the applicant. No applicant under twenty-one years of age will be accepted.
 2. The type(s) of vehicle(s) which the applicant will drive under the certificate.
 3. Any other request for information the commission Director considers necessary or relevant.
- C. The applicant shall provide copies of the following documents in order to submit his application:
 1. A valid Tennessee driver license that complies with all applicable requirements of state law as further specified in rules to be adopted by the commission.
 2. A Social Security card or birth certificate.
 3. If a resident alien, a current work permit or other valid United States Immigration and Customs Enforcement document.
 4. On forms provided by the commission Director, the applicant will provide a statement

under penalty of perjury of their physical and mental fitness to act as a for-hire driver as well as provide such other information as may be reasonably required by regulation promulgated by the commission pursuant to this chapter.

5. Certification that the driver has completed the certificate holder's mandatory driver training program approved by the commission Director.
- D. Each application shall be accompanied by an official driver record issued by the Tennessee Department of Safety, no more than thirty days previous to the date of application. All applicants are required to meet the following standards:
 1. No convictions in the last five years for any of the following offenses involving bodily injury or death and no convictions in the last three years for any of the following offenses not involving injury or death:
 - Driving under the influence of an alcoholic beverage or drug;
 - Reckless driving.
 2. For an initial permit, no more than three moving violations within the last three years and no more than two moving violations in the last year.
 3. For a renewal permit, no more than four moving violations within the last three years and no more than two moving violations in the last year.”
- E. The commission or commission director may place on probation, suspend, fine or revoke a driver's permit if it is determined that the permittee made a false statement on his/her application.”

Section 14. That Chapter 12.54, Section 12.54.140 of the Metropolitan Code of Laws shall be amended by deleting it in its entirety and replacing it with the following language:

“12.54.140 Criminal background investigation

- A. Upon receiving an application for a driver's permit from an applicant, the applicant must undergo an identification and background check as required by state law as more specifically provided by rules or regulations adopted by the commission. Upon receipt of the background check report, the commission Director shall determine whether the applicant's background check disqualifies him or her from eligibility for a driver's permit.
- B. Additionally, certificate holder shall check the National Sex Offender Database to verify whether the applicant is listed on the database, and shall certify under oath to the commission that it has conducted this check and verified that the applicant does not appear on the database. Any applicant listed on the database shall be disqualified for eligibility for a driver's permit.
- C. Any applicant shall, in addition to any disqualifications listed elsewhere in this chapter, be disqualified if the applicant:
 1. Has been convicted, pleaded guilty, nolo contendere or conditionally plead guilty pursuant to T.C.A. § 40-35-313 within a period of three years prior to the date of application for violation of any of the following criminal offenses under the laws of Tennessee, any other state, or the United States of America:
 - Homicide,
 - Rape,
 - Aggravated assault,
 - Kidnapping,
 - Robbery,

- Burglary,
 - Child sexual abuse,
 - Any sex-related offense,
 - Criminal solicitation, or criminal attempt to commit any of the above,
 - The felony possession, sale or distribution of narcotic drugs or controlled substances.
2. If, at the time of the application, an otherwise qualified applicant has been convicted of any of the above listed offenses, the Commission Director shall take the application before the commission for approval.
 3. If, at the time of application, the applicant is charged with any offenses in 1. above, consideration of the application shall be deferred until entry of a plea, conviction, acquittal, dismissal, or other final disposition of the charges.
 4. Has been convicted for a period of two years prior to the date of application of the violation of two or more sections of this Code or other ordinances governing the operation of vehicles for hire.
 5. Has failed to disclose any criminal conviction, except traffic citations, on the application for a permit.”

Section 15. That Chapter 12.54 of the Metropolitan Code of Laws shall be amended by adding a new section 12.54.141 and the following language:

“12.54.141 Application approval or disapproval.

Upon disapproval of a driver permit application by the commission director, applicants may file an appeal with the commission within thirty days of denial and request an appearance before the commission. The appeal shall be heard by the commission at the next available commission meeting with the appellant appearing in-person for consideration of the application.”

Section 16. That Chapter 12.54 of the Metropolitan Code of Laws shall be amended by adding a new section 12.54.142 and the following language:

“12.54.142 Issuance---Contents

Upon approval of an application for a driver's permit, the certificate holder shall certify under oath to the commission director that the application is complete and accurate prior to issuing a permit to the applicant, in a form approved by the commission director.”

Section 17. That Chapter 12.54 of the Metropolitan Code of Laws shall be amended by adding a new section 12.54.143 and the following language:

“12.54.143 New Application after denial.

Upon denial of an application for a driver's permit, no new application shall be considered for a period of three months.”

Section 18. That Chapter 12.54 of the Metropolitan Code of Laws shall be amended by adding a new section 12.54.144 and the following language:

“12.54.144 Expiration---Issuance and Replacement fee

A. Each driver's permit shall be issued for a period of one year. All permits issued under the provisions of this chapter shall expire March 1st of the year following the date on which the permit was issued. All certificates may be renewed by the MTLC director for each successive year. A renewal fee for each approved certificate and other licensing fees shall be charged at the annual renewal of the certificate.

B. A permit may be issued to qualified applicants for driver permits upon the payment of an amount to be established by the commission to cover the costs of investigation and of a random sampling of the permit applications by the commission director. A fee in an amount to be established by the commission shall be charged for all replacement driver permits. Every driver shall at all times conspicuously display a permit on the clothing of the driver's upper body. A driver shall allow a customer, MTLC staff or a police officer to examine the permit upon request.”

Section 19. That Chapter 12.54 of the Metropolitan Code of Laws shall be amended by adding a new section 12.54.145 and the following language:

“12.54.145 Suspension, revocation, and appeal

A. The Commission or the commission director is authorized to suspend, fine, revoke, otherwise restrict, or not renew any driver's permit issued under this article for failing or refusing to comply with the provisions of this chapter or the commission rules and regulations. Upon suspension, revocation, or other restriction of any driver's permit by the commission director, appeals can be made to the commission by filing a written request within thirty days of the action being appealed.

B. If the driver commits an act in violation of the Criminal Code or the Metropolitan Code of Laws and the commission director determines that driver poses a threat to public safety or animal welfare, the commission director may enact an emergency suspension of the driver's permit to remain in effect until the driver has the opportunity to be heard by the commission at the next available commission meeting, but in no circumstance later than sixty days from the date of the emergency suspension.

C. A driver whose permit is revoked by the commission or commission director may not reapply for ninety days from the date of revocation and will be treated as a new applicant.”

Section 20. That Chapter 12.54 of the Metropolitan Code of Laws shall be amended by adding a new section 12.54.146 and the following language:

“12.54.146 Revocation of a valid driver’s license

A driver’s permit issued under this chapter shall be coterminous with the permittee's valid Tennessee driver's license. Any time that a permittee's driver's license is suspended, revoked, or cancelled, the permittee shall immediately self-report said action to the commission and the driver's permit shall likewise be immediately suspended, revoked, or cancelled. The driver's permit shall immediately be surrendered to the commission until such time as their driver's license is reinstated.”

Section 21. That Chapter 12.54, Section 12.54.160 of the Metropolitan Code of Laws shall be

amended by deleting it in its entirety.

Section 22. That Chapter 12.54, Section 12.54.180 of the Metropolitan Code of Laws shall be amended by deleting it in its entirety.

Section 23. That Chapter 12.54, Section 12.54.200(A) of the Metropolitan Code of Laws shall be amended by deleting it in its entirety and replacing it with the following language:

“A driver shall at all times:

1. Act in a reasonable, prudent, and courteous manner;
2. Not permit a person, other than an employee or the owner of the horse drawn carriage service to operate the carriage under the driver’s control;
3. Not permit a person on the back of a carriage horse when the horse is under the driver’s control;
4. Not leave a horse untethered or unattended except when confined to a stable or other enclosure;
5. Not permit a horse to drop excrement from its diaper;
6. Keep all carriage stands clean and free of animal excrement;
7. Not permit the seating capacity rated for his or her carriage to be exceeded;
8. Operate the horse drawn carriage in approved areas;
9. Not operate a carriage while under the influence of alcohol or drugs;
10. Comply with all traffic laws and regulations of the Metropolitan government and state. Non-compliance shall be determined by the issuance of a citation from the Metropolitan Police Department or any law enforcement body of the state.
11. Not permit a passenger to stand or ride on any part of the carriage other than the designated seating area while the carriage is in motion and advise the passengers that they must be seated except when loading or unloading;
12. Load and unload passengers solely at designated carriage stands;
13. Not permit the speed at which any horse drawn carriage is driven to exceed a trot; and,
14. Be responsible for the proper and humane care and treatment of each animal under their direct care and control.

Section 24. That Chapter 12.54, Section 12.54.240(A) of the Metropolitan Code of Laws shall be amended by deleting “commission director” and substituting in lieu thereof, “MTLC staff.”

Section 25. That Chapter 12.54, Section 12.54.240(A)(2) of the Metropolitan Code of Laws shall be amended by deleting it in its entirety and replacing it with the following language:

“Proof that the animal has had tetanus, rabies, Influenza, Rhinopneumonitis, West Nile Virus, Potomac Horse Fever and Eastern-Western encephalitis vaccinations;”

Section 26. That Chapter 12.54, Section 12.54.240(A) of the Metropolitan Code of Laws shall be amended by adding a new section (5) and the following language:

“Any documents the commission director deems necessary.”

Section 27. That Chapter 12.54, Section 12.54.240(B) of the Metropolitan Code of Laws shall be amended by deleting it in its entirety and replacing it with the following language:

“A permittee with an animal used in a horse drawn carriage must adhere to the following regulations and conditions:

1. Be appropriately shod and trimmed, and shall utilize rubber-coated pads or boots or open steel barium tip shoes, or other shoes approved by a veterinarian or by commission rule. If a horse loses a shoe while working, an "easy" type boot may be used to finish the scheduled workday;
2. Be inspected and maintained by a farrier at least every eight weeks, or as necessary. Records must be kept by the owner in the carriage of the dates and the name of the farrier who shod the animal. Such records are subject to inspection by the commission director and MTLC staff;
3. Not have any open or bleeding wound, oozing sore, or cut below skin level;
4. Not have evidence of lameness;
5. Have all harnesses properly fitted and in good repair with no deficiencies that create a safety hazard;
6. Be properly cleaned with no offensive odors or caked dirt or mud;
7. Wear a special sanitary device properly fitted for containing animal excrement;
8. Flies and other insects must be controlled through general sanitation and other necessary means;
9. Animals shall not pull more than three times their current weight in load, where the load weight totals all equipment, carriage driver, passengers and other carriage contents;
10. Animals weighing at least one thousand, four hundred pounds can pull six passengers. For this section, a passenger is defined as an adult weighing more than one hundred pounds;
11. Not have obvious signs of emaciation, malnutrition, or exhaustion and meets standards established through the Tennessee livestock welfare laws;
12. All harnesses, bridles and bits and any other equipment shall be properly fitted and kept in good repair. Blankets, bridles and bits shall not be used on another animal unless it is first disinfected. Harnesses and bridles shall be kept well-oiled and cleaned and in good repair;
13. Carriages must be kept properly lubricated, and wheels must spin freely and straight;
14. Animals requiring veterinary care shall not be moved, ridden or driven, except for the purpose of humane keeping, pasturing or obtaining medical care;
15. "Free choice" access to water, salt and hay or other forage suitable for equine consumption shall be available to all horses in the stabling and/or assembly/transfer sites or during rest periods;
16. Carriages shall not be pulled by stallions or pregnant mares, nor shall stallions or pregnant mares be brought into any of the stables, assembly/transfer sites or assembly/holding sites;
17. Other equids including mules and donkeys used to pull carriages must meet the same requirements as described for horses;
18. Provisions shall be made to catch or immediately pick up any manure deposited by the carriage horses away from the stable or assembly/transfer sites. The manure shall be returned to the stable or transfer sites for appropriate disposal;
19. Animals shall wear properly attached and fitted blinders while pulling carriages;
20. Owner and handlers shall take immediate measures to prevent or address shivering, overheating and any other emergency medical condition affecting the animal's health;

21. It is the responsibility of owners, drivers, and riders to protect the animal and, when under their control, to ensure that the animal is not left to roam freely and possibly cause harm to the public or itself;
22. Owners shall not allow the animal to be worked on a public highway, path or street during adverse weather or other conditions that are a threat to the health or safety of the horse and public; and,
23. No horses shall be permitted to pull a carriage with a loose shoe.”

Section 28. That Chapter 12.54, Section 12.54.260(D) be amended by deleting it in its entirety and replacing it with the following language:

“If, upon any inspection, a carriage is found to be unsafe, unclean or unsightly, the commission director, MTLC Staff, Metro Animal Control staff or police officer, may direct that the carriage be taken out of service until such condition is corrected. Such carriage shall be re-inspected and approved by the commission director, MTLC Staff or designee before returning to service, at which time a new permit shall be issued and a service fee (established by rule) shall be collected.”

Section 29. That Chapter 12.54 of the Metropolitan Code of Laws shall be amended by adding new section 12.54.350 and the following language: “12.54.350 Complaint Procedure. On forms provided by the commission Director, any complainant who alleges that a certificate holder, driver’s permit holder, or employee of the certificate holder has violated provisions of this chapter shall provide a statement under penalty of perjury detailing the alleged violation. The violation date must have occurred no more than 30 days prior to the filing of the complaint form to be actionable. Upon receipt of a valid complaint, the commission director may:

1. Conduct a hearing at a location to be determined by the commission director and adjudicate the complaint by determining if a violation of this chapter has occurred.
 - a. Upon finding that a violation has occurred, the commission director may impose appropriate punishment, if any, for the violation pursuant to the authority found in Sections 12.54.070 and 12.54.145.
 - b. Prior to the hearing, the certificate holder or driver’s permit holder or employee of the certificate holder that is the subject of the complaint shall be notified in writing of the nature of the complaint and the date, location and time of the hearing.
 - c. Should the certificate or permit be suspended, revoked, or otherwise restricted, appeals can be made to the commission by filing a written request within thirty days of the action being appealed. An appeal processing fee of twenty dollars must be enclosed with the written request.
 - d. During the appeal of the commission director’s decision to suspend, revoke, or otherwise restrict a certificate or permit issued pursuant to this Chapter before the commission, the commission may consider the commission director’s adjudication when hearing the appeal. The commission shall sustain, modify or reverse the findings of the commission director. The findings of the commission shall be final, subject to any applicable legal process.
2. In his/her discretion, have the commission adjudicate the complaint by placing the complaint on the agenda for the next available commission meeting.
3. It shall be a violation of this chapter to make a false statement under oath during a

disciplinary hearing before the Transportation Licensing Commission. If the commission finds that any certificate holder or driver permittee has violated this section, the commission may place the certificate holder or driver permittee on probation, suspend, fine or revoke a certificate.

Section 30. Amendments to this legislation shall be approved by resolution.

Section 31. This ordinance shall take effect from and after its final passage, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

RECOMMENDED BY:

INTRODUCED BY:

Billy Fields, Director
Transportation Licensing Commission

APPROVED AS TO FORM

AND LEGALITY:

Council Member(s)

Assistant Metropolitan Attorney